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Summary

The Agriculture Bill is a crucial part of the UK Government's plan for future farming and land management policy, as expected the Bill provides broad powers to current and future governments, enabling them to provide financial assistance and make other policy interventions around land use and agriculture.

Food Security: We welcome the inclusion of Food Security in this bill but would encourage the reporting to also include reference to emissions, climate change impact and sustainability of supply to ensure a more complete understanding of the situation.

Fair Dealing in the Supply Chain: We agree with the intention to improve the fair dealing provisions and build on the work of the Grocery Code Adjudicator.

Producer Organisations: We recognise the need to provide more support for producer organisations and would encourage efforts that enable collaboration between business.

Matters Relating to Farming and the Countryside: We broadly support these Clauses

Marketing Standards (Organic): We broadly support the Clauses on organic standards; it is an area where we feel commonly agreed frameworks should be used to ensure consistency.

WTO Agreement on Agriculture: We note the ongoing concerns of Scottish Government surrounding WTO clauses. Whilst trade is a reserved matter, we think the bill has missed the opportunity to clarify the inclusion of devolved nations in trade negotiations. If this is not challenged Scotland risks failing to have an effective say in post-Brexit trade deals.

Introduction and Context

The CAP currently provides nearly £4 billion of support annually to farmers and crofters across the UK, of which approximately £500 million of which comes to Scotland and is delivered to farmers and crofters via Direct Payments (Pillar 1) and the Scottish Rural Development Programme (Pillar 2). Leaving the Common Agriculture Policy enables a radical rethink on how Scotland supports agriculture and achieves environmental targets.

Although many aspects of farming and land management are devolved, the UK Agriculture Bill will have an impact on farming across all parts of the UK. It is absolutely vital that the Westminster Agriculture Bill considers the views and needs of Scottish agriculture. It is not just the outcomes of

this legislative process that will shape agriculture in the future but also the decision-making processes that are established via the Agriculture Bill.

A long-term vision from the UK Government is absolutely key to stability and confidence in the sector. It is imperative that future policy does not prevent rural businesses from taking advantage of these opportunities. Ahead of the 2019 General Election we launched our manifesto "[Our Plan for a Thriving Rural Scotland](#)" which called for key issues such as trade and common frameworks to be addressed immediately, and for climate change to be front and centre of all policy. Our vision is to have the true value and contribution of rural land-based businesses recognised and valued both publicly and politically.



Agriculture is directly responsible for contributing £670 million to the Scottish economy.

(gov.scot Agriculture Fact and Figures)



In 2015, the partial asset value of Scottish Natural Capital was estimated to be £29 billion, 37% of the UK asset value.

(Scottish Natural Capital: Ecosystem Service Accounts, 2019)



In 2016 Scotland represented 45% of overall UK carbon sequestration with an estimated value of £995 million.

(Scottish Natural Capital: Ecosystem Service Accounts, 2019)

Thriving rural businesses provide wider social, economic and environmental benefits for all, as detailed in our paper '[#Route2050: A direction of travel for Scottish land management to 2050](#)', which sets out a 30-year vision for rural Scotland. Our concern is with doing what is best for Scottish farming and rural development and in our view maintaining a functioning UK-wide agricultural system is important. SLE remains open to supporting whichever route best achieves that goal.

Scottish Extent

Part 8, Clause 52 of the bill details the extent of the bill, the following parts of the bill extend to Scotland; Part 2 - Chapter 1 (Clause 17), Part 3 - Chapters 2 and 3, Part 4 - excluding Clause 34 (Agricultural Tenancies), Part 5 - excluding Clause 35 (Marketing Standards) and Clause 38 (Carcass Classification), Part 6, Part 8, Schedule 1 and Schedule 2.

Legislative Consent has been sought for; Part 2 Clause 17, Part 4 Clauses 31-33, Part 5 Clause 36-37. It has not been sought for the other Clauses which extend to Scotland as Westminster views them as within their competence. Scottish Government dispute this, especially in relation to WTO Agreement on Agriculture and Producer Organisations. Constitutional disputes surrounding reserved areas and the creation of common frameworks must be addressed sooner rather than later. However, these issues should not prevent Scottish MPs from scrutinising the content and principle of clauses which extend to Scotland, regardless of the level of consent ultimately required.

Food Security

Previously the Food and Agricultural Markets section covered enabling Government to provide financial assistance or other interventions in the case of exceptional market conditions, this is covered in **Clause 18- 20** which does not extend to Scotland and is covered by the Agriculture (Retained EU Law and Data) (Scotland) Bill.

However, it now includes **Clause 17** which relates to Food Security. This new clause places a requirement for Government to report to Parliament on UK food security. It outlines that every five years Government must present a report analysing UK self-sufficiency, food safety, supply chain resilience, household expenditure and global food availability. Legislative consent has been sought from Scottish Parliament for this clause. Food production in itself is not a public good; however, food security is a natural strategic priority for a nation. We welcome the inclusion of Food Security in this Bill but would encourage the reporting to also include reference to emissions, climate change impact and sustainability of supply to ensure a more complete understanding of the situation.

Fair Dealing in the Supply Chain

Part 3, Chapter 2, **Clause 27** (Fair Dealing with Agricultural Producers and others in the Supply Chain) extends to Scotland. It sets out the powers for the Government to make regulations aimed at promoting fair contractual dealing by operators who buy produce direct from qualifying sellers. Qualifying sellers include someone carrying out an agricultural activity, recognised producer organisations (and associations of producer organisations) and produce aggregators (someone who buys farm output but does not process). Regulations may impose obligations to use a written contract, inclusion of terms such as pricing mechanism, notice periods and fair dealing practices. The [Scottish Agricultural Champions Report](#) (2018) stated the need for effective supply chain regulation to avoid unfair trading practices and the need for business to be more aware of the options available. It is clear that collaboration will be key for the future success of the industry as such work is needed to ensure competition law and financial support are fit for purpose. Legislative consent has not been sought from Scottish Parliament for **Clause 27**. However, in Annex B of the [Legislative Consent Memorandum](#) for the previous Agriculture Bill Scottish Government considered that consent would be required.

Producer Organisations

Part 3, Chapter 3, **Clauses 28-30** (Producer Organisations) Existing EU Regulations related to producer organisation will be converted into domestic law under the EU (Withdrawal) Act 2018 and a domestic Producer Organisation regime will be created. There are also special conditions for commencement of the PO provisions which can only start after exiting the EU (while most others

can commence before EU exit). Groups of POs can also be recognised as Association of POs (APOs) for even greater scale of collaboration.

Legislative consent has not been sought from Scottish Parliament for **Clauses 28-30**. However, in Annex B of the [Legislative Consent Memorandum](#) for the previous Agriculture Bill Scottish Government considered that consent would be required.

Matters Relating to Farming and the Countryside

Part 4 includes 4 clauses which relate to; fertilisers, identification and traceability of animals, red meat levy repatriation and changes to agricultural tenancies. **Clause 34** (Agricultural tenancies) does not extend to Scotland. **Clauses 31-33** will require Legislative Consent.

Clause 31 amends part 4 of the Agriculture Act 1970 (fertilisers etc.) changes include the powers to change fertiliser regulations, primarily to allow changes to products that release ammonia but includes bio stimulants and other products. **Clause 32** includes powers to change legislation relating to the identification and traceability of animals. **Clauses 31 and 32** cover areas where a common framework approach would be sensible. Too much divergence on the legislation within the UK is likely to create market distortion and could adversely impact trade negotiations.

Clause 33 relates to the repatriation of the Red Meat Levy. This has been an ongoing issue for Scottish producers, Quality Meat Scotland (QMS) estimates that over £1.5 million of levy on Scottish animals is lost each year. We welcome the inclusion of this clause in the bill. Legislative consent has been sought from Scottish Parliament for **Clauses 31-33**.

Marketing Standards

Clause 35 (Marketing Standards) and **Clause 38** (Carcass Classification) do not extend to Scotland and are covered in the Agriculture (Retained EU Law and Data) (Scotland) Bill.

Clause 36 and 37 relate to organic products and include the powers amend and introduce regulation in relation to the certification of organic products, activities relating to organic products and those involved in organic production. Organic policy is another area where we feel common frameworks should be used to prevent internal market distortion and ensure a level of consistency for trade deals. Legislative consent has been sought from Scottish Parliament for clauses 36-37.

WTO Agreement on Agriculture

Clauses 40-42 give the Government the power to ensure that the UK complies with its Schedule of Commitments and obligations to the World Trade Organisation (WTO). The Government will be given the power to classify the levels of support in terms of their potential to be trade distorting and

to comply with the Agreement on Agriculture. Amber box payments allow a WTO member to put in place a ceiling for trade distorting support and the Secretary of State will implement this within UK law. The Secretary of State will also be able to use a proportion of trade distorting support and apply this across the UK, for example, in cases of crisis. The Secretary of State will be permitted to set ceilings on green and blue box payments to apply across the UK.

Clarity is needed on the potential for financial constraints for Scottish agricultural policy and any issues surrounding devolved competence. The UK Government contends it will be responsible for ensuring that all UK policies on domestic support in relation to agriculture are WTO compliant, as the UK will be the signatory to the WTO rather than any of the devolved nations.

However, the Scottish Government contended in the [Legislative Consent Memorandum](#) for the previous Bill that the WTO Clauses would not respect the devolution settlement as it could create unilateral powers for the Secretary of State which would constrain policy choices in Scotland. The issues surrounding WTO Agreement on Agriculture is clearly one which needs resolving. SLE would like to see clarity on the agreement and consultation process between the Secretary of State and devolved authorities to ensure that decisions are not forced upon them without due consideration of their impact.

Common Frameworks

The Scottish agricultural sector has similarities and differences with every country in the United Kingdom. However, even if the detail of delivering policies is different, it will be important that there is a common policy framework across the UK. One which ensures there are no barriers to trade or broad difference in welfare standards. Any UK policy or framework has to be created with equal collaboration across all of the devolved administrations.

SLE welcomed the agreement between the UK government and devolved administrations on the principles that will underpin the creation of common frameworks. The UK Governments updated [Frameworks Analysis Document](#) clearly shows the areas and level of action required in the development of common frameworks. Frameworks will be needed across a broad range of policy activity. Of the 21 policy areas where future legislation may be needed to implement common rules, 15 relate to agriculture, food production or the environment.

Whilst agriculture and rural development are devolved, at present Scotland does not have absolute control because the framework within which Scottish decisions are made is set by the Common Agricultural Policy at the EU level. Scotland is able to tailor implementation of the policy, not decide on its own policy. We accept this situation because the CAP provides the policy consistency across

the EU that allows trade, from which we benefit. An over-arching policy framework provides a degree of consistency, for example on the level to which farmers are subsidised, so that there is a level playing field that enables open markets. We agree to cede some sovereignty in decision-making because we gain something in return: we gain the ability to trade without infringement or additional cost.

Protecting Standards

After the UK leaves the EU, Scottish businesses will enter an unprecedented era of change in terms of international trade. Strong and committed leadership will be fundamental to ensuring we create the right conditions for Scotland’s producers to continue to thrive. We would like to see the UK Government ensure that trade in agri-food products is as free as possible with our principal markets. In the event of disrupted trade supply routes, public procurement should stipulate the use of domestic produce to enhance the potential for supply in our domestic markets.

Scotland’s producers need guarantees from the UK Government that domestic production and environmental standards are upheld as part of future international trade deals. Our extremely high environmental and food safety standards are amongst our key selling points, and this must be protected after we leave the EU to ensure we don’t find ourselves in a ‘race to the bottom’. As a responsible nation, Scotland must ensure it does not export its farming function to other countries, particularly where environmental, animal health and food safety is not guaranteed.

Route2050: A direction of travel for Scottish land management to 2050

[#Route2050](#) sets out our priorities for future rural investment and reward. SLE is in an almost unique position, with members involved in a range of sectors including agriculture, forestry, housing, & tourism. Each of these require high standards of land management and each is reliant on the other to deliver their full potential. Agriculture is of course devolved, and we are clear that Scotland must be able to meet its policy objectives on its own terms. Which is why the development of common frameworks that respect the devolution and Scotland’s autonomy is so crucial. We believe that rural businesses will underpin increased societal and environmental wellbeing throughout Scotland and the UK along with the direct creation of jobs and the indirect increase in opportunities for product and service provisions. What seems clear is that if it is managed in an integrated way, the land can deliver more in the way of outcomes to society.

Land management in Scotland also delivers natural capital in the form of:

